

Remarks

The Office Action dated October 28, 2009, has been received and carefully reviewed.

The preceding amendment and the following remarks form a full and complete response thereto.

Claims 30-67 are pending in the present application and are submitted for consideration.

Claims 30-58 have been amended to correct minor informalities and put the claims in conformance with U.S. practices. New claims 59-67 have been added to claim features deleted from claims 30-58. Claim 43 has also been amended to specify that the “U-shaped outer shell (34) has two side walls (42).” Support for this amendment can be found, for example, in the specification at page 15, lines 11-14. Claim 49 has been amended to be dependent on claim 32 instead of claim 30 to ensure proper antecedent basis for the term “the front shell (22)” in claim 50. No new matter has been added.

Rejection of Claims under 35 U.S.C. § 112

Claims 33-48 and 50-58 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse these rejections for the following reasons.

For the most part, the claims were amended in accordance with the Examiner’s suggestions. For example, claim 33 has been clarified by removing any relative language, typographical errors in claims 34, 36 and 41 has been corrected, “can be” has been replaced with “is” or “is/are,” “similar” has been deleted from claims 36-38 and 58, “essentially” and “if necessary” have been deleted from claim 43, and the use of the terms “in particular” or

“particularly” has been have been deleted from claims 42, 45, 53 and 57. Accordingly, the amended claims are definite, and withdrawal of the rejection is respectfully requested.

Also, “linear form” and “flat design” have been deleted from claim 37 and replaced with the “linear and/or flat shape.” As a person of ordinary skill in the art would readily understand the meaning of “linear and/or flat shape,” withdrawal of the rejection is respectfully requested.

However, the Examiner asserted that the use of alternative phrases in the claims “render[ed] the claims alternative and indefinite.” Office Action at p. 2. Rejecting the claims on this basis is improper under the MPEP. *See MPEP 2173.05(h)(II)* (“Alternative expressions using ‘or’ are acceptable.”); *MPEP 2173.05(h)(I)* (“Alternative expressions are permitted if they present no uncertainty or ambiguity with respect to the question of scope or clarity of the claims.”). The alternative phrases in the claims present no uncertainty or ambiguity with respect to the question of scope or clarity of the claims, and the Examiner has provided no explanation as to why they would. As the claims using alternative language are definite, withdrawal of the rejection is respectfully requested.

In addition, the Examiner asserted that “it is not clear what limitations are involved in a coating that ‘makes surface changes or damages visible.’” Office Action at p. 3. As the meaning of this phrase would be readily apparent to one of ordinary skill in the art and the claim feature clearly reads on any coating that makes surface changes or damages visible, claim 48 is definite.

Accordingly, all of the pending claims are definite, and withdrawal of the rejection is respectfully requested.

Rejection of Claims under 35 U.S.C. § 102

Claims 30-39, 43, 44, 49-52 and 54-58 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,788,190 to Siers (“Siers”). Applicants respectfully traverse this rejection for the following reasons.

Independent Claim 30

Applicants respectfully submit that claim 30 is not anticipated by Siers because Siers does not disclose each and every feature of claim 30. For example, Siers does not disclose a “support structure (10) [that] is a shell profile (16) that takes at least part of the forces acting on the [extendable] flap (12) and transmits them to the object (14),” as required by claim 1.

In the rejection of claim 30, the Examiner relies on fairing 60 of Siers as the claimed “support structure” and wing 30 of Siers as the claimed “object.” Office Action at p. 3. Although not explicitly stated, it can only be assumed that the Examiner is relying on “flap assembly 18 that is movable between a stowed position and an extended position” as the claimed “extendable flap.” *See* Siers at col. 3, lines 11-13 and Figs. 1-2. Fairing 60 has a forward stationary shell element 62 and a rear movable shell element 64. Siers at col. 5, lines 29-31. The Examiner asserts that the forward stationary shell element 62 of fairing 60 “will transmit forces to the wing.” Office Action at p. 3. However, the Examiner does not provide any support for this assertion.

The rejection is improper because Siers does not disclose that the forward stationary shell element 62 of fairing 60 takes at least a part of the forces acting on flap assembly 18 and transmits them to the wing 30. To the contrary, Siers discloses that the “fairing 60 provides a

smooth exterior surface to enhance airflow along the lower surfaces of the wing and the slotted cruise trailing edge flap.” Siers at col. 5, lines 26-29. As a result, force flow through the aerodynamic forward stationary shell element 62 of fairing 60 is neither envisaged nor practically possible in the structure of Siers. Instead, any absorption and transmission of forces from flap 18 into wing 30 of Siers will occur **exclusively** through support structure 23. Although the support structure 23 is enclosed in the fairing 60, the fairing 60 does not transfer any force itself because its smooth surface enhances airflow. Siers at col. 5, lines 26-29.

Therefore, it is unreasonable to rely on the forward stationary shell element 62 of fairing 60 of Siers as transmitting at least a part of the forces acting on the flap 18 into wing 30 because it is the support structure 23 that transmits forces while the fairing 60 merely improves fluid/aerodynamic flow conditions. Thus, the rejection is improper because Siers does not disclose a “support structure (10) [that] is a shell profile (16) that takes at least part of the forces acting on the [extendable] flap (12) and transmits them to the object (14),” as required by claim 30. Reconsideration and withdrawal of the rejection are respectfully requested.

Dependent Claims 31-39, 43, 44, 49-52 and 54-58

Claims 31-39, 43, 44, 49-52 and 54-58 depend on independent claim 30 and are patentable over Siers for the same reasons discussed above with regard to claim 30 as well as for the additional limitations they recite.

Rejection of Claims under 35 U.S.C. § 103

Claims 40-42, 45-48 and 53 were rejected under 35 U.S.C. § 103(a) as being unpatentable by reasons of obviousness over Siers in view of U.S. 6,432,507 to Brick et al. (“Brick”). Applicant respectfully traverses these rejections for the following reasons.

Claims 40-42, 45-48 and 53 depend on independent claim 30. For the reasons explained above, Siers does not disclose a “support structure (10) [that] is a shell profile (16) that takes at least part of the forces acting on the [extendable] flap (12) and transmits them to the object (14),” as required by claim 30. Further, nothing in Brick suggests or in any way hints at such a feature. Therefore, claims 40-42, 45-48 and 53 are patentable over Siers in view of Brick for the same reasons discussed in regard to claim 30 as well as for the additional limitations they recite.

New Claims 59-67

Claims 59-67 depend on independent claim 30 and are patentable over Siers and Brick, alone or in combination for the same reasons discussed above with regard to claim 30 as well as for the additional limitations they recite.

Conclusion

All of the stated grounds of rejection have been properly traversed or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections, and that they be withdrawn. Applicants submit that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

The Applicants respectfully petitioned for a one-month extension of time. Any fees for the extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

Date: 2/18/2010 By /Robert B. Murray/
Robert B. Murray
Attorney for Applicants
Registration No. 22,980
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040